

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

AUSTIN RAY ORANGE,

Plaintiff,

v.

**COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

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Case No. 6:20-cv-389-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. The Magistrate Judge issued a Report and Recommendation (Docket No. 20), recommending that the Commissioner's final decision be affirmed and that this social security action be dismissed with prejudice. Plaintiff filed written objections (Docket No. 21).

In his objections, Plaintiff re-urges the argument raised in his brief that the ALJ failed to give due consideration to the medical opinions of two treating physicians, Dr. Van Andel and Dr. Fuentes. Plaintiff submits that the ALJ improperly failed to adopt limitations on pushing, pulling and overhead reaching that were proscribed by Dr. Van Andel and Dr. Fuentes.

The record shows that Dr. Van Andel and Dr. Fuentes evaluated Plaintiff for the purpose of completing workers' compensation status reports. The ALJ noted in his decision that their opinions were intended to be temporary in nature and, while useful, their assessments concern different administrative conclusions and programs with different evaluation criteria and policy goals. In compliance with the revised rules on the consideration and articulation of medical opinions found in 20 C.F.R. § 404.1520c, the ALJ considered the supportability and consistency


of these medical opinions, identified specific medical evidence to support his conclusions, and determined that these medical opinions were not fully persuasive. Plaintiff's allegation that the ALJ erred by failing to adopt specific portions of their evaluations lacks merit.

Conclusion

The Court reviews objected-to portions of the Report and Recommendation de novo. FED. R. CIV. P. 72; 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed finding and recommendation to which objection is made."). The Court conducting a de novo review examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Having made a de novo review of the written objections filed by Plaintiff in response to the Report and Recommendation, the Court concludes that the findings and conclusions of the Magistrate Judge are correct and the objections are without merit.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report and Recommendation (Docket No. 20) is **ADOPTED**. The Commissioner's final decision is **AFFIRMED** and this civil action is **DISMISSED WITH PREJUDICE**. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **11th** day of **January, 2022**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE